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REFORMS NEEDED IN THE HOUSE.

BY THE HON. THOMAS B. REED, SPEAKER OF THE HOUSE OF REPRESENTATIVES.

IF THE recent changes in the rules and practice of the House of Representatives were matters of mere party triumph or party policy, there would be little occasion ever again to mention the subject; for the acquiescence which has followed the full expression of public opinion would last through this Congress without other sanction. But the changes have been so beneficial that they ought not to be subject to any suspicion of being open to the charges of partisanship, of unfairness, or of destroying the liberty of the individual member. What has been done ought to be preserved intact, because very much more needs to be done before the House becomes a deliberative body capable of satisfactorily doing the business of a great nation, which becomes every day visibly greater.

Whenever any reform is proposed, it has to encounter, first of all, the great controlling force of conservatism. We boast our intellectual power, our inventive faculty, our growth in civilization and knowledge, and our comprehension of human affairs, and yet we are almost as unwilling to step out of the beaten track as the other animals—those which are thought to have no souls. We like to do what we have already done; for we then know all the risks and all the dangers. To do what we have done is also much easier. It takes but little intellect to put your foot in a track already made. Yet this same conservatism is the great safeguard of us all. It keeps us out of many scrapes and much

folly. Nevertheless, the fact that use and wont and our devotion to habits once acquired are so great and needed a preserver, shows most painfully the limitations of the human intellect.

One of the great adjuncts of conservatism—the greatest, perhaps, except inertia—is imagination. A proposed change has to encounter not merely the evils which really and necessarily attend all imperfect human endeavor, but all those which the human imagination can conjure up. Not all that will happen, but all that may happen, has to be passed in review. The objections to a bill which is proposed are all that the human mind can think of, good or bad, while the objections to a bill passed are only those which exist.

If Mr. Carlisle's article in the March REVIEW, able and judicious as it is, should be examined in the light of subsequent events, should be tested by the experience of three months of actual working of the rules he deprecates, it would be found that his objections, all and singular, are to those evils which might have happened, but never have.

There is no quarrel to be had with his description of the small power actually exercised by the Speaker of the British House of Commons ; but there always was in the Speaker's office the power to stop abuses, even of the natural parliamentary privileges of members. When, in 1881, the members of the Home-Rule party for forty-one hours had exercised their undoubted parliamentary privileges of addressing the House and making motions, and had for forty-one hours stopped the business of the country, the Speaker refused longer to entertain motions unquestionably parliamentary, refused even the right of debate, and summarily broke up the obstruction. He did it without the action of the House, with no precedent in his favor, and nothing to sustain him but the common-sense of the English people. Mr. Carlisle did not state that incident, probably because his attention had not been called to it ; but had it been in his mind, he would himself have felt that, if he cited it, he would be citing a parallel which reflected severely on friends. If a British presiding officer, having so little power as he describes, could of his own motion clear off an obstruction which consisted in the repetition of proper parliamentary motions and in demands for the sacred privilege of debate, why could not an American presiding officer without reproach do the same ? and why could not the House, also

without reproach, crystallize its approval of such action into rules ?

In fact, the Speaker of the House of Commons had, up to the incident referred to, exercised little repressive power because little was needed. In that body, in times gone by, men acted with the utmost deference to the wishes of the House. Members even refrained from making speeches when they saw that the House did not want to hear them. Motions were withdrawn if the sense of the House seemed manifestly against them. With such a deference on the part of each member to the wishes of all, there was little call for repression. To a body whose members behaved in that way to each other it was a great shock to be obliged to abridge the right of debate and use the *clôture*. The Americans had had the *clôture* in the shape of the previous question from time immemorial, and it seemed to us almost absurd to have so much pother about stopping discussion. For years in American assemblies, when the body harangued had had enough of haranguing they put an end to it, and nobody had any feeling except a sense of relief. How did this happen? How came it that the oldest parliamentary body in the world was the last to enforce the doctrine by its rules that even a deliberative body has to act, as well as deliberate? It was because obstruction, wanton and unjustifiable, appeared there last. Nobody with sense exhibits a remedy unless there is a disease. The disease came quickest in America, for liberty, with all its delights, has its compensatory disadvantages. Wherever one man is as good as another, he is quite likely to think he is better. Equality not quite digested is apt to give the sensation of superiority, and that leads to wilfulness and the attempt to substitute minorities for majorities. We Americans early realized this, and, by the aid of the previous question, soon made the individual member understand that, while he was equal to any other, he was not equal to all others.

To commend to us the mild and ineffectual fashions of England, and try to transplant the ways of the House of Commons to the House of Representatives, is to forget that manners change with change of skies.

Mr. Carlisle's chief complaint against the new rules is that for the purpose of preventing obstruction they sacrifice the rights and privileges of individual members. Heretofore the individual

member, of his own sweet will, has had the right to move to adjourn, to move to fix a day to adjourn to, to move for a recess, and to make any other motion he saw fit. He could do it even to the extent of stopping public business, and if seconded by one-fifth, or 20 per cent., of the members present, he could set in motion the roll-call, and he and his friends needed to rise in their places but twice in an hour, and the business of 60,000,000 people would be deadlocked, and four-fifths, or 80 per cent., of the members must look on idle, and useless, and paralyzed. Or if, on bill day, he wanted to wear out the day, he could put in the Revised Statutes for reënactment and have them read, and nobody could say him nay. It was the right of the individual member, sacred and holy—a fetich. That this right trampled on the rights of all the other members, individually and collectively, and made dictators out of men whose only superiority consisted in what we will call courage, seems not to move Mr. Carlisle in the least.

One would think that so clear-headed and capable a man would see that taking this tyrannical power from the member can only be done by lodging a power superior in degree and higher in quality with some one else. Whom can that power be lodged with, except one whom he himself, both by quotation and by his own opinion, shows to be the “servant” of the House? Is a man any the less a “servant” because he has tools given him? Is the servant any the less a servant because his master replaces his scythe by a mowing-machine? Whatever power is given to a Speaker of the House is given to him as the servant of the House, to be exercised by him in its interest. And the House has always power to replace him. If he should so misuse his functions that the rights of others were trampled on, another Speaker could be at once chosen to take his place.

The new rule that “no dilatory motion shall be entertained by the Speaker” is no more a new creation of parliamentary law than half the other rules are. Like them, it is but a declaration of power already existing; in this case, of the power which has always resided in the presiding officer as servant of the House. Motions made to block business are only a species of disorder more difficult to deal with, perhaps, because they have the semblance of honest performance, but they are like disorder in quality and substance. The right to walk in the street is guaranteed to

everybody. That is what streets are for. Liberty of speech is a birth-right. Yet, if a party of swashbucklers should lock arms, and with loud and boisterous talk, or even in perfect silence, should sweep all other passengers off the sidewalk, how long would liberty of speech and the right of every citizen to walk the streets protect the band from the police? It is very bad logic which leads men to infer that, because a proceeding is generally virtuous, it can therefore never be vicious.

Credit must, however, be given Mr. Carlisle for his admission that it was "true to a certain extent" that motions had been misused to obstruct, and that, if a proper remedy had been proposed, his friends would have voted for it. By proper remedy he meant "a remedy consistent with the Constitution and the freedom of parliamentary proceedings." Of course he could have told us what that remedy was, and I am sure the country will join the majority of the House in an expression of profound regret that that remedy was not proposed. My own personal regret, however, is much mitigated by the fact that in real life these perfect remedies which avoid all objections and satisfy all objectors never do get proposed. They always remain in that delightful state of vagueness characteristic of such adjectives as "proper," "suitable," and the like.

This idea is somewhat confirmed by the lament which is made over the vote of the House that no appeal need be allowed from the decision of the Speaker that a motion is dilatory. At first blush, especially to a man of no experience in parliamentary affairs, this seems like a hard thing to sustain. A member presumably as free from guile as Nathanael rises and moves to adjourn. The presiding officer refuses to entertain his motion; absolutely will not let him see if the House wants to go home. Thereupon the member says he appeals, and the chair refuses his appeal. The House, longing to abandon public business, looks on helpless and powerless. This certainly seems a hard case. It looks, indeed, like arbitrary power. But, as Mr. Carlisle very truly remarks, "arbitrary power can exist nowhere in a free government." The picture is simply a fancy picture such as dreams are made of.

In real, every-day life, the dilatory motion to adjourn becomes as easily distinguishable from the real motion to adjourn as the sun from a farthing candle. The real danger always will be that the presiding officer, for the very purpose of avoiding even the

semblance of arbitrary power, will delay and let time be wasted long after everybody else sees the dilatory purpose. Whatever is written about dilatory motions must be read in the light of one important fact too often overlooked and too little known. The Constitution puts it in the power of one-fifth to order a vote by yeas and nays. The vote by yeas and nays, intended by the framers of the Constitution simply to show constituencies how their representatives voted, has been prostituted to the use of the filibusters. With three hundred and thirty members in a place so large that it is itself an imperative invitation to confusion, it takes, one time with another, a full half-hour to ascertain the vote. Eight roll-calls will utterly ruin a day. Hence any plan which makes roll-calls inevitable is a sure plan for obstruction.

If the reader will bear this in mind, he will be in a condition to thoroughly appreciate Mr. Carlisle's sorrow over the refusal of the House to secure a right of appeal against the decision of the Speaker that a motion was dilatory. Bear in mind that any motion whatever may be made dilatory and used for obstruction. With a following of 20 per cent.—and such a following can always be had on a party question—all that a man would have to do, if such an appeal were allowed, would be to make a motion, no matter how plainly obstructive, take his appeal, set the roll-call going, and let it go thirty minutes, to be followed by other motions, other appeals, and all the other half-hours necessary to defeat and tire out the majority. Nor need the obstructive member stultify himself by voting to sustain his own appeal. With such a right it would be easy to guarantee that no majority which did not exceed four-fifths could or would be of the slightest use.

Perhaps this contention shows what Mr. Carlisle's idea of a proper measure to suppress obstruction would be—the “remedy consistent with the Constitution and the freedom of parliamentary proceedings”; which is to say, a remedy the disease would be pleased with—a measure to suppress filibustering which would be satisfactory to the filibusters.

One other complaint made by Mr. Carlisle deserves notice, not in the House of Representatives, but in the outside world. He claims that the right of the individual member, and even of the House, has been trampled upon by having bills filed, instead of presented in the open House, and reports referred by the clerk, instead of by the assembly itself. He omits to say that private

bills, petitions, and river-and-harbor bills had long been so referred, to the great saving of the time of the House and to the great satisfaction of members. He omits to say that, so far as reference of bills was concerned, the new rules were but the extension of a practice already tried and found entirely consistent both with the rights of individual members and with the business of the country.

Before the new rules were adopted, the presentation of bills was, in actual practice, one of the very worst specimens of our legislative work. Amid a confusion which could not be controlled—for nobody cared anything about other people's bills—the title was read by the clerk, the Speaker caught what he could of it, while members claimed his attention on both sides of the chair, and with the aid of the clerks disposed of it as well as he could. Naturally there were many misreferences, though they were seldom heard of because there was no chance of correction. At present the bills are handed in, not on the streets and after hours, as Mr. Carlisle has been misinformed, but during the session, and then are referred with deliberation and accuracy. Of course there are still errors, because the titles of the bills may mislead, and the jurisdiction of committees is not always clear; but all important errors are corrected, because the committee that ought to have a bill can demand it, and one that ought not to have it can send it, if the House approves, where it belongs.

So also with reference to the calendars of reports of committees. There are only three calendars—one for public bills carrying property or money, one for public bills which do not carry money or property, and one for private bills. Under the new rules the bills are all handed to the clerk and by him placed on appropriate calendars. Formerly a half-hour or an hour a day was taken out of the public time and out of the public business to do this simple clerical work in the presence and hearing of members. The only mistake which can be made is as to bills carrying money, and if they get on the wrong calendar, any member by a point of order can put them where they belong.

This system has been in operation for over two months, and has saved from three to five hours a week, and four hours are very near a working day. It is not worth while to comment on this. A simple description of what the system is and what it does is ample defence. The House will never go back to the tiresome old

method which was a waste of time, a weariness to members, and a source of confusion and disorder.

While the reforms made by the Fifty-first Congress are valuable almost beyond estimate for the direct good they do, they are no less valuable as a promise of future good. They have broken up in considerable measure the old system, and have relieved men's minds of certain fears which possessed them. Many men who were among the prognosticators of evil, when the new rules were passed, were entirely sincere in the belief that, if the House obtained the right to do what it pleased, extravagance and unreason would run riot. Accustomed to get behind the rules as the sole protection, they forgot that the best protection of a country is liberty and government of the majority. They can now see that facility of action has but increased the sense of responsibility, and that, instead of the rules, the real protectors of the Treasury are the good sense and honesty of the members of the House.

While the new rules have done much to facilitate business, and, so far as they go, are a great improvement on the old methods, there are many things which they have not reached. The House calendar is well served. On this calendar are all bills which do not carry appropriations and do not involve any expenditures on the part of the government. A large class of bills are included in this category ; such as bills which enable our great navigable rivers to be bridged, which regulate the divisions of States into judicial districts, which enable railroads to cross military reservations and the regions devoted to the Indians, and which regulate the course of judicial proceedings. All these things are considered and passed in the morning hour, which, being an hour in name only, can be so expanded that the House can finish any business which it may desire to finish.

All private bills go to the private calendar, and the claims of individuals have now no chance except what they receive during the Fridays which the press of public business permits to be used for their consideration. There is in the House no calendar which seems so hopeless and so unattackable. During thirteen years I have seen many bright and sanguine men propose remedies and offer panaceas, but they have all failed to meet the disease. The trouble lies just here. As a body, these claims can be referred to no court, for they are not legal claims, but rest almost entirely

on the sense of equity of Congress. If a man makes a contract with another and it proves a hard one, the law can only turn him over to the tender mercies of his adversary. If a man makes a hard contract with the government, nobody but Congress can be merciful and compassionate; and when the discussion opens and eloquence begins, it is astonishing to see how hard it will be to predict whether the quality of mercy will be closely strained or whether it will drop like the gentle rain. Three hundred and thirty men, each liable to have acquired renown as an orator in his own country, are not, in Committee of the Whole House, facile or speedy disposers of questions resting upon the broad principles of equity. Perhaps the best practical remedy would be to spend Fridays considering such bills in the House, where there might be full power of debate, but less invitation to oratory.

It would undoubtedly be very unjust to forbid Congress to consider such claims at all, but a constitutional provision forbidding the consideration of any which had been outstanding more than ten years would not only clear off stale claims, but would remove the temptation to waste lives and hopes in chasing the will-o'-the-wisp of congressional justice. Energies which could have made new fortunes have too often been spent in vain pursuit of decisions of Congress which can never be obtained.

The calendar of the Committee of the Whole House on the State of the Union holds in its close embrace all bills which carry money or appropriate the property of the United States. To it go all revenue and all appropriation bills. That committee is substantially the same body as the House, though presided over by a chairman appointed by the Speaker. There is no previous question, though there is power to limit debate. After general debate on the whole bill, there is a five-minute debate on the sections, which practically gives unlimited power of making five-minute speeches. By this system there is much debate, and a great deal of it runs to waste. The same arguments are iterated and reiterated, and the bill stands still. Obstruction is made very easy; and hence in the present House bills which a large majority desired have had to be rescued repeatedly from the Committee of the Whole House in order to pass at all.

This rescue is achieved by the action of the House, founded on the recommendation of the Committee on Rules, which has charge of the order of business. By a resolution the

House takes a bill out of committee and considers it in the House itself, with limitations as to debate and as to time of action. This can be done with bills of large importance when the whole House appreciates the need of action, and when, perhaps, experience has shown the impossibility of dealing with them in committee.

But this system is not applicable to small bills affecting only local interests; and hence some plan ought to be devised either to transfer such bills to the House calendar, and let them be dealt with in the morning hour, or to refuse to require bills with only one item of appropriation to go to the union calendar at all.

While the present House, by its good sense and courage, has cleared off many elements of obstruction, it has not prevented men from wasting time and delaying business. It has, however, prevented its waste by wholesale. It is, nevertheless, a fact that the Constitution itself gives to one-fifth of the members a right that to-day is the greatest cause of delay and waste of time which still remains in the House of Representatives. Under the Constitution the House is obliged, at the request of one-fifth of the members, to record the vote of each Representative. Whenever one-fifth demand it, the yeas and nays must be called. As has been already stated, each one of these calls means a half-hour, and when the State of Wyoming Bill was passed the other day in the House, the better part of the day was consumed in roll-calls; and I venture the prediction that history will never know anything more about it than that the Republicans were for the bill and the Democrats were against it. To make the calculation after the fashion of a railroad report, there were three hours lost for each of three hundred and thirty men, making a dead loss of 990 hours in roll-calls on one bill.

Whether some mechanical contrivance can diminish this waste of time and commend itself alike to the Constitution and the House will soon have to be considered; as also the question whether the present immense hall shall be reduced in its dimensions to the convenience of the human voice. With the large number sure to come with each new decade and each new census, the inconvenience of demanding a majority for a quorum will more and more press itself upon the consideration of the people, and the arguments for a smaller quorum, which were not prevalent when the Constitution was formed, may acquire new force under new circumstances and new necessities.

THOMAS B. REED.